

PACIFIC COUNTY SEPA ORDINANCE NO. 121B

AN ORDINANCE AMENDING PACIFIC COUNTY ORDINANCE NOS. 121 AND 121A WHICH PERTAIN TO THE IMPLEMENTATION OF THE STATE ENVIRONMENTAL POLICY ACT (SEPA)

WHEREAS, Pacific County Ordinance No. 121 as amended by Ordinance No. 121A needs to be further amended to conform to the requirements of the Pacific County Comprehensive Plan and the State Growth Management Act (GMA), Chapter 36.70A RCW;

WHEREAS, Pacific County Ordinance No. 121B constitutes one of the development regulations that needs to be enacted under the Pacific County Comprehensive Plan and the GMA;

WHEREAS, Pacific County Ordinance No. 121B will effectuate the intent of the Pacific County Comprehensive Plan and the GMA regarding environmental review of proposed development activities;

WHEREAS, Pacific County Ordinance No. 121B will update Pacific County's SEPA procedures by clarifying the SEPA process, by eliminating outdated provisions, by changing the language to better track the Model SEPA Ordinance promulgated by the State Department of Ecology under Chapter 173-806 WAC, and by integrating SEPA review with Pacific County's procedures for processing land development applications under Ordinance No. 145 and the amendments thereto;

WHEREAS, Pacific County Ordinance No. 121B in large measure codifies many of the informal procedures that Pacific County recently has used in conducting SEPA review;

WHEREAS, Pacific County Ordinance No. 121B limits categorical exemptions to only those activities listed in WAC 197-11-800 et seq.;

WHEREAS, Pacific County Ordinance No. 121B mandates that all proposed non-exempt activities, including proposed actions affecting water quality in the Willapa Bay Watershed, must be assessed for environmental impacts;

WHEREAS, Pacific County Ordinance No. 121B provides for appropriate environmental review of proposed development activities without being unduly burdensome on land developers; and

WHEREAS Pacific County Ordinance No. 121B is exempt from the requirements of SEPA under WAC 197-11-800(20); now therefore,

IN ACCORDANCE WITH CHAPTER 36.32 RCW, IT IS HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS, PACIFIC COUNTY, WASHINGTON, AS FOLLOWS:

1. Section 1 of Pacific County Ordinance No. 121 as amended by Pacific County Ordinance No. 121A is amended to read as follows:

SECTION 1 - GENERAL

- A. **Authority and Purpose.** The County of Pacific adopts this Ordinance under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and SEPA rules, WAC 197-11-904, for the purpose of establishing an environmental review of SEPA in Pacific County governmental decision making. It is the intent of the County that compliance with the Ordinance shall constitute complete procedural compliance with SEPA and the SEPA rules.
- B. **Title.** This Ordinance constitutes and may be cited as the Pacific County Environmental Policy Ordinance.
- C. **Effective Date.** Pacific County Ordinance No. 121 is effective as of November 5, 1990. The addition to Pacific County Ordinance No. 121 that is contained in Board of Pacific County Commissioners' Resolution 92-104 is effective for any development applications that are deemed to be vested between September 2, 1992, and [the effective date of this Ordinance]. The amendment to Pacific County Ordinance No. 121 that is contained in Pacific County Ordinance No. 121A is effective for any development applications that are deemed to be vested between April 21, 1992, and September 26, 2000. Resolution 92-104 and Ordinance No. 121A shall not be applicable to development applications that vest after the effective date of Pacific County Ordinance No. 121B. The amendments and additions to Pacific County Ordinance No. 121 that are contained in Pacific County Ordinance No. 121B are effective as September 26, 2000.
- D. **Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, such decision shall not

affect the validity of the remaining portions of the Ordinance or its application to other persons or circumstances.

- E. **Applicability.** The requirements of this Ordinance are applicable to all actions of Pacific County and its departments, officers, boards, and commissions.
- F. **SEPA Rules - Adoption by Reference.** Pacific County adopts, by reference, the following sections of Chapter 197-11 of the Washington Administrative Code:

- WAC 197-11-040 Definitions
- 197-11-050 Lead Agency
- 197-11-060 Content of environmental review (including subsection 197-11-060(3)(c))
- 197-11-070 Limitations on actions during SEPA process
- 197-11-080 Incomplete or unavailable information
- 197-11-090 Supporting documents
- 197-11-100 Information required of applicants
- 197-11-158 GMA project review---Reliance on existing plans, laws, and regulations
- 197-11-210 SEPA/GMA integration.
- 197-11-220 SEPA/GMA definitions.
- 197-11-228 Overall SEPA/GMA integration procedures
- 197-11-230 Timing of an integrated GMA/SEPA process
- 197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping
- 197-11-235 Documents
- 197-11-250 SEPA/Model Toxics Control Act (MTCA) integration
- 197-11-253 SEPA lead agency for MTCA actions
- 197-11-256 Preliminary evaluation
- 197-11-259 Determination of nonsignificance for MTCA remedial actions
- 197-11-262 Determination of significance and EIS for MTCA remedial actions
- 197-11-265 Early scoping for MTCA remedial actions.
- 197-11-268 MTCA interim actions

- 2. Section 2 of Pacific County Ordinance No. 121 as amended by Pacific County Ordinance No. 121A is amended to read as follows:

SECTION 2 - DEFINITIONS

A. **General.** In addition to those definitions contained within WAC 197-11-700 through 197-11-799, and 197-11-220, when used in this Ordinance, the following terms shall have the following meanings unless the context indicates otherwise:

1. Board – “Board” means the Pacific County Board of Commissioners.
2. County - “County” means Pacific County.
3. Department - “Department” means any division, subdivision or organizational unit of Pacific County.
4. Early Notice - “Early Notice” means the County’s response to an applicant which indicates whether the issuance of a determination of significance is likely for the applicant’s proposal.
5. Ordinance - “Ordinance” means an ordinance, resolution, or other procedure used by the County to adopt regulatory requirements.
6. SEPA - “SEPA” means the State Environmental Policy Act, Chapter 43.21 RCW.
7. SEPA Rules - “SEPA Rules” mean Chapter 197-11 WAC adopted by the Department of Ecology.

B. **SEPA Rules - Adoption by reference.** Pacific County adopts, by reference, the following sections of Chapter 197-11 WAC:

WAC 197-11-700	Definitions
197-11-702	Act
197-11-704	Action
197-11-706	Addendum
197-11-708	Adoption
197-11-710	Affected tribe
197-11-712	Affecting
197-11-714	Agency
197-11-716	Applicant
197-11-718	Built environment
197-11-720	Categorical exemption
197-11-721	Closed record appeal

197-11-722 Consolidated appeal
 197-11-724 Consulted agency
 197-11-726 Cost-benefit analysis
 197-11-730 Decision maker
 197-11-734 Determination of nonsignificance (DNS)
 197-11-736 Determination of significance (DS)
 197-11-738 EIS
 197-11-740 Environment
 197-11-742 Environmental checklist
 197-11-744 Environmental document
 197-11-746 Environmental review
 197-11-750 Expanded scoping
 197-11-752 Impacts
 197-11-754 Incorporated by reference
 197-11-756 Lands covered by water
 197-11-758 Lead agency
 197-11-760 License
 197-11-762 Local agency
 197-11-764 Major action
 197-11-766 Mitigated DNS
 197-11-768 Mitigation
 197-11-770 Natural environment
 197-11-772 NEPA
 197-11-774 Nonproject
 197-11-775 Open record hearing
 197-11-776 Phased review
 197-11-778 Preparation
 197-11-780 Private project
 197-11-782 Probable
 197-11-784 Proposal
 197-11-786 Reasonable alternative
 197-11-788 Responsible official
 197-11-790 SEPA
 197-11-792 Scope
 197-11-793 Scoping
 197-11-794 Significant
 197-11-796 State agency
 197-11-797 Threshold determination
 197-11-799 Underlying governmental action

3. Section 3 of Pacific County Ordinance no. 121 as amended by Pacific County Ordinance No. 121A is amended to read as follows:

SECTION 3 - PROCEDURE

A. **Designation of Responsible Official.**

1. For all proposals, public and private, the responsible official shall be the Director of the Pacific County Department of Community Development or his or her designee.
2. For all proposals for which the County is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA Rules that are adopted by reference in subsection 1.F.

B. **SEPA Public Information.** The County shall retain all documents required by the SEPA Rules (Chapter 197-11 WAC) and make them available in accordance with Chapter 42.17 RCW.

C. **Administration.**

1. The Director of the Pacific County Department of Community Development (DCD) is hereby authorized to formulate written administrative rules which are consistent with and effectuate the purpose of this Ordinance. Any such rules must be approved by resolution of the Board of County Commissioners following a public hearing. Any activity pertaining to SEPA shall conform to any such administrative rules that are formulated by the DCD Director and approved by the Board.
 2. A fee schedule which covers that activities delineated in this Ordinance shall be set by resolution of the Board of County Commissioners. Until modified or replaced, Resolution 99-088 contains the specific fees that the County shall charge for SEPA activities.
4. Section 4 of Pacific County Ordinance No. 121 as amended by Pacific County Ordinance No. 121A is amended to read as follows:

SECTION 4 - LEAD AGENCY STATUS AND AGENCY COMPLIANCE

A. Lead Agency Determination and Responsibilities.

1. The Pacific County Department of Community Development shall determine the lead agency for a proposal that involves a nonexempt action pursuant to the criteria set forth in WAC 197-11-050, 197-11-253, and 197-11-922 through 197-11-940, unless the lead agency has been previously determined, or DCD is aware that another agency is in the process of determining the lead agency.
2. When the County is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
3. When the County is not the lead agency for a proposal, all departments of the County shall use and consider as appropriate, either the DNS or the final EIS of the lead agency in making decisions of the proposal. No County department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the County may conduct supplemental environmental review under WAC 197-11-600.
4. If the County or any of its departments receives a lead agency determination made by another agency that is inconsistent with the criteria of WAC 197-11-253 or 197-11-922 through 197-11-940, the responsible official may object to the determination. Any objection must be made to the agency originally making the determination and must be resolved within fifteen (15) days of receipt of the determination, or the responsible official must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the fifteen (15)-day time period.
5. The responsible official is authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and WAC 197-11-944.
6. When the responsible official makes a lead agency determination for a private project, sufficient information shall

be required from the applicant to identify which other agencies have jurisdiction over the proposal.

7. When the County is lead agency for a MTCA remedial action, the Department of Ecology shall be provided an opportunity under WAC 197-11-253(5) to review the environmental documents prior to public notice being provided. If the SEPA and MTCA documents are issued together with one public comment period under WAC 197-11-253(6), the County shall decide jointly with the Department of Ecology who receives the comment letters and how copies of the comment letters will be distributed to the other agency.

B. Transfer of Lead Agency Status to a State Agency. For any proposal for a private project where the County would be the lead agency and for which one or more State agencies have jurisdiction, the responsible official may elect to transfer the lead agency duties to a State agency. The State agency with jurisdiction appearing first on the priority list in WAC 197-11-936 shall be the lead agency, and the County shall be an agency with jurisdiction. To transfer lead agency duties, the responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate State agency with jurisdiction. The responsible official also shall give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal.

C. Additional timing considerations. For nonexempt proposals, the DNS, the mitigated DNS, or the final EIS for the proposal shall accompany any County staff report that is submitted to the appropriate review authority, such as the planning commission.

5. Section 5 of Pacific County Ordinance No. 121 as amended by Pacific County Ordinance No. 121A is amended to read as follows:

SECTION 5 - CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

A. Purpose of This Section and Adoption by Reference. This Section contains the rules for deciding whether a proposal has a “probable significant, adverse environmental impact” requiring an EIS to be prepared. This Section also contains rules for evaluating the impacts of proposals not requiring an EIS. The County adopts the following WAC sections by reference, as supplemented by this Section:

WAC 197-11-300	Purpose of this Section
197-11-305	Categorical exemptions
197-11-310	Threshold determination required
197-11-315	Environmental checklist
197-11-330	Threshold determination process
197-11-335	Additional information
197-11-340	Determination of nonsignificance (DNS)
197-11-350	Mitigated DNS
197-11-355	Optional DNS process
197-11-360	Determination of significance (DS)/ initiation of scoping
197-11-390	Effect of threshold determination

B. Use of Exemptions.

1. Each department within the County that receives an application for a permit/license, or, in the case of governmental proposals, the department initiating the proposal, shall determine whether the permit/license and/or the proposal is categorically exempt. The County shall not require the completion of an environmental checklist for an exempt proposal.
2. In determining whether a proposal is exempt, the department shall make certain that the proposal is properly defined and shall identify the governmental permits/licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the responsible official shall determine the lead agency, even if the permit/license application that triggers the review is exempt.
3. If a proposal includes both exempt and nonexempt actions, the County may authorize exempt actions prior to compliance with the procedural requirements of this Ordinance, except that:
 - a. The County shall not give authorization for:
 - i. Any nonexempt action;
 - ii. Any action that would have an adverse environmental impact; or
 - iii. Any action that would limit the choice of alternatives.

- b. A department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
- c. A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

C. Environmental Checklist.

- 1. A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this Ordinance. However, a checklist is not needed if the lead agency on a public proposal has decided to prepare its own EIS, if the County and applicant agree that an EIS is required, if SEPA compliance has been completed, or if SEPA compliance has been initiated by another agency. The County shall use the environmental checklist to determine the lead agency. The environmental checklist also shall be used in making the threshold determination.
- 2. For private proposals, the County will require the applicant to complete the environmental checklist, providing assistance as necessary. For County proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.
- 3. The County may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:
 - a. The County has technical information on a question that is unavailable to the private applicant; or
 - b. The applicant has provided inaccurate information on a previous proposal or on a proposal currently under consideration.

D. Mitigated Determinations of Nonsignificance.

1. As provided in this subsection and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarification of, the proposal made by the applicant.
2. An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:
 - a. Follow submission of a permit/license application and environmental checklist for a nonexempt proposal; and
 - b. Precede the County's actual threshold determination for the proposal.
3. The responsible official shall respond to the request for early notice within fifteen (15) working days. The response shall:
 - a. Be written;
 - b. State whether the County currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the County to consider a DS; and
 - c. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, by revising the environmental checklist and/or permit/license application as necessary to reflect the changes or clarifications.
4. To the extent practical, the County should assist the applicant with identification of impacts to the degree necessary to formulate mitigation measures.
5. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the County (1) shall base its threshold determination on the changed or clarified proposal, (2) shall make the determination within fifteen (15) days of receiving the changed or clarified proposal, and (3) shall apply the following criteria:

- a. If the County indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the County shall issue and circulate a DNS under WAC 197-11-340(2);
 - b. If the County indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the County shall make the threshold determination, issuing a DNS or DS as appropriate;
 - c. The applicant's proposed mitigation measures (clarifications, changes, or conditions) must be in writing and must be specific; for example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals "to muffle machinery to X decibel" or "to construct a two hundred (200) foot stormwater retention pond at Y location" are adequate; and
 - d. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies, or other documents.
6. A mitigated DNS may be issued under WAC 197-11-340(2), which requires a fourteen-day comment period and public notice, or under WAC 197-11-355, which may require no additional comment period beyond the comment period on the notice of application.
 7. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval that attach to the permit/license and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner prescribed by the County.
 8. If the County's tentative decision on a permit/license or other approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the County should evaluate the threshold determination to ensure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
 9. The County's written response under subsection 5.D.2. shall not be construed as a determination of significance. In

addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the County to consider the clarifications or changes in its threshold determination.

6. Section 6 of Pacific County Ordinance No. 121 as amended by Pacific County Ordinance No. 121A is amended to read as follows:

SECTION 6 - ENVIRONMENTAL IMPACT STATEMENTS (EIS)

- A. **Purpose of This Section and Adoption by Reference.** This Section contains the rules for preparing environmental impact statements. The County adopts the following WAC sections by reference, as supplemented by this Section:

WAC 197-11-400	Purpose of EIS
197-11-402	General Requirements
197-11-405	EIS types
197-11-406	EIS timing
197-11-408	Scoping
197-11-410	Expanding scoping
197-11-420	EIS preparation
197-11-425	Style and size
197-11-430	Format
197-11-435	Cover letter or memo
197-11-440	EIS contents
197-11-442	Contents of EIS on nonproject proposals
197-11-443	EIS contents when prior nonproject EIS
197-11-444	Elements of the environment
197-11-448	Relationship of EIS to other considerations
197-11-450	Cost-benefit analysis
197-11-455	Issuance of DEIS
197-11-460	Issuance of FEIS

- B. **Preparation of EIS - Additional Considerations.**

1. Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the responsible official. Before the County issues an EIS, the responsible official shall be satisfied that it complies with this Ordinance and Chapter 197-11 WAC.
2. The DEIS and FEIS or draft and final SEIS shall be prepared by County staff, or by a qualified party selected by the responsible official. If the responsible official requires an EIS for a proposal and determines that someone other than the

County will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official also shall notify the applicant of the County's procedure for EIS preparation, including approval of the DEIS and the FEIS prior to distribution. Any qualified party selected to prepare an EIS must possess sufficient training and experience to accomplish the required tasks. The responsible official shall consider the opinion of the applicant regarding the qualifications of a qualified party, but the responsible official shall retain the sole authority for selecting persons or entities to author required environmental documents, to provide special services, or otherwise to participate in the preparation of required environmental documents. All costs of preparing the required environmental documents shall be borne by the applicant.

3. The County may require an applicant to provide information the County does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this Ordinance or that is being requested from another agency. (This does not apply to information the County may request under another ordinance or statute.)

7. Section 7 of Pacific County Ordinance No. 121 as amended by Pacific County Ordinance No. 121 is amended to read as follows:

SECTION 7 - PUBLIC NOTICE AND COMMENTING

- A. **Purpose of this Section and Adoption by Reference.** This Section contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The County adopts the following WAC sections by reference, as supplemented by this Section:

WAC 197-11-500	Purpose of this Section
197-11-502	Inviting comment
197-11-504	Availability and cost of environmental documents
197-11-508	SEPA register
197-11-510	Public notice
197-11-535	Public hearings and meetings
197-11-545	Effect of no comment
197-11-550	Specificity of comment
197-11-560	FEIS response to comments

197-11-570 Consulted agency costs to assist lead agency

B. Public Notice.

1. Whenever practical, the County shall integrate the public notice required under this Section with existing notice procedures for the County's nonexempt permit(s)/license(s) or other approval(s) required for the proposal.
2. Whenever the County issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the County shall give public notice as follows:
 - a. If public notice is required for a nonexempt permit/license, or other approval, the notice shall state whether a DS or DNS has been issued and when comments are due;
 - b. If an environmental document is issued concurrently with the notice of application, the public notice requirements for the notice of application in RCW 36.70B.110(4) and Pacific County Ordinance No. 145, or any amendments thereto, will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1);
 - c. Whenever the County issues a DS under WAC 197-11-360(3), the County shall outline the scoping procedure for the proposal in the public notice and in the DS (see WAC 197-11-408).
3. If a DNS is issued using the optional DNS process, the public notice requirements for a notice of application in RCW 36.70B.110(4) and Pacific County Ordinance No. 145, or any amendments thereto, as supplemented by the requirements in WAC 197-11-355, will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1)(b).
4. Whenever the County issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:
 - a. Indicating the availability of the DEIS in any public notice required for a nonexempt permit/license or other approval;

- b. Posting the property, for site-specific proposals; and
- c. Publishing notice in a newspaper of general circulation in the county, or in the area where the proposal is located.

C. Designation of Official to Perform Consulted Agency Responsibilities for the County.

- 1. The responsible official shall be responsible for preparation of written comments for the County in response to a consultation request prior to a threshold determination, participation in scoping, and review of a DEIS.
- 2. This responsible official shall be responsible for the County's compliance with WAC 197-11-550, whenever the County is a consulted agency. The responsible official shall ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the County.

- 8. Section 8 of Pacific County Ordinance No. 121 as amended by Pacific County Ordinance No. 121A is amended to read as follows:

SECTION 8 - Using Existing Environmental Documents.

Purpose of This Section and Adoption by Reference. This Section contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the County's own environmental compliance. The County adopts the following WAC sections by reference:

- WAC 197-11-600 When to use existing environmental documents
- 197-11-610 Use of NEPA documents
- 197-11-620 Supplemental environmental impact statement---Procedures
- 197-11-625 Addenda---Procedures
- 197-11-630 Adoption---Procedures
- 197-11-635 Incorporation by reference---Procedures
- 197-11-640 Combining documents

- 9. Section 9 of Pacific County Ordinance No. 121 as amended by Pacific County Ordinance No. 121A is amended to read as follows:

SECTION 9 - SEPA AND AGENCY DECISIONS

- A. **Purpose of This Section and Adoption by Reference.** This Section contains rules for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This Section also delineates procedures for appealing SEPA determinations. The County adopts the following WAC sections by reference as supplemented by this Section:

WAC 197-11-650	Purpose of this Section
197-11-655	Implementation
197-11-660	Substantive authority and mitigation
197-11-680	Appeals

B. **Substantive Authority.**

1. The regulations set forth in this Ordinance are supplementary to requirements in other ordinances and resolutions that have been adopted by the County legislative authority.
2. The County may attach conditions to a permit/license or other approval if:
 - a. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this Ordinance;
 - b. Such conditions are in writing;
 - c. The mitigation measures included in such conditions are reasonable and capable of being accomplished;
 - d. The County has considered whether other local, State, or Federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
 - e. Such conditions are based on one or more of the criteria in subsection 9.B.4 and are cited in the permit/license or other decision document.
3. The County may deny a permit/license or other approval I on the basis of SEPA if:

- a. A finding is made that approving the proposal would result in a probable significant adverse environmental impact that is identified in a FEIS or final SEIS prepared pursuant to this Ordinance;
 - b. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
 - c. The denial is based on one or more criteria identified in subsection 9.B.4. and identified in writing in the decision document.
4. The County designates and adopts the Pacific County land ordinances, Pacific County Board of Health ordinances, and the regulations contained within the Pacific County Shoreline Master Program as a basis for the County's exercise of authority pursuant to this Section. The County also designates and adopts the following criteria as a basis for the County's exercise of authority pursuant to this Section:
- a. All practicable means shall be used to improve and coordinate plans, functions, and programs to:
 - i. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - ii. Assure safe, healthful, productive, and aesthetically and culturally pleasing surroundings for everyone;
 - iii. Attain the widest range of beneficial uses of the environment;
 - iv. Preserve important historic, cultural, and natural aspects of the heritage of Pacific County;
 - v. Maintain, an environment which supports diversity;
 - vi. Achieve a balance between population and resource use which will permit high standards

of living and a wide sharing of life's amenities;
and

vii. Maintain the quality of renewable resources
and attempt to recycle depletable resources;
and

b. Each person has a fundamental and inalienable right
to a healthful environment;

C. Appeals.

1. Any aggrieved party may administratively appeal an environmental determination made by Pacific County, provided that the underlying substantive action is being reviewed under the requirements of Ordinance No. 145, or any amendments thereto. Any such appeal of an environmental determination shall be consolidated with the underlying substantive County review process. However, a department's determination that a proposal is exempt under subsection 5.B and Section 10 of this Ordinance shall be subject to administrative review only if an aggrieved party files a written complaint with the responsible official within fifteen (15) days of the date that the exemption decision is first implemented. Any such written complaint must challenge the exemption decision itself and the substantive merits of the action. The responsible official shall respond to any such complaint using a Type I process under Ordinance No. 145, or any amendments thereto. If a timely complaint is not registered with regard to an exemption decision, the decision shall be final.
2. Any administrative appeal at the County level of an environmental determination made by Pacific County, or any State administrative appeal of an environmental decision ultimately made by Pacific County, or any judicial appeal of an environmental decision ultimately made by Pacific County, must be filed in writing with the appropriate review authority within the time period for challenging the underlying governmental action.

10. Section 10 of Pacific County Ordinance No. 121 as amended by Pacific County Ordinance No. 121A is amended to read as follows:

SECTION 10 - CATEGORICAL EXEMPTIONS

Adoption By Reference. The County adopts by reference the following rules for categorical exemptions, as supplemented by this Ordinance, including WAC 173-806-080 (Use of exemptions):

WAC 197-11-800 Categorical exemptions
197-11-880 Emergencies
197-11-890 Petitioning DOE to change exemptions

11. Section 11 of Pacific County Ordinance No. 121 as amended by Pacific County Ordinance No. 121A is amended to read as follows:

SECTION 11 - AGENCY COMPLIANCE

- A. **Purpose of this Section and Adoption by Reference.** This Section contains rules for compliance with SEPA, including rules for listing agencies with environmental expertise, for selecting the lead agency, and for applying these rules to current agency activities. The County adopts the following WAC sections by reference:

WAC 197-11-900 Purpose of this Section
197-11-902 Agency SEPA policies
197-11-916 Application to ongoing actions
197-11-920 Agencies with environmental expertise
197-11-922 Lead agency rules
197-11-924 Determining the lead agency
197-11-926 Lead agency for governmental proposals
197-11-928 Lead agency for public and private proposals
197-11-930 Lead agency for private projects with one agency with jurisdiction
197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city
197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies
197-11-936 Lead agency for private projects requiring licenses from more than one state agency
197-11-938 Lead agencies for specific proposals
197-11-940 Transfer of lead agency status to a state agency
197-11-942 Agreements on lead agency status
197-11-944 Agreements on division of lead agency duties

197-11-946 DOE resolution of lead agency disputes
197-11-948 Assumption of lead agency status

12. A new Section is added to Pacific County Ordinance No. 121 as amended by Pacific County Ordinance No. 121A and reads as follows:

SECTION 12 - FORMS

Adoption By Reference. Pacific County adopts the following WAC forms and sections by reference:

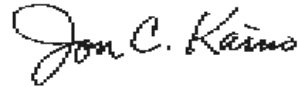
WAC 197-11-960 Environmental checklist
197-11-965 Adoption notice
197-11-970 Determination of nonsignificance (DNS)
197-11-980 Determination of significance and
scoping notice (DS)
197-11-985 Notice of Assumption of lead agency status
197-11-990 Notice of action

[SIGNATURES ON THE NEXT PAGE]

PASSED BY THE BOARD OF PACIFIC COUNTY COMMISSIONERS MEETING
IN regular session at South Bend, Washington, by the following vote, then signed
by its membership and attested to by its Clerk in authorization of such passage
this 26th day of September, 2000.

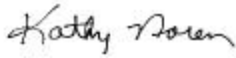
 3 AYE; 0 NAY; 0 ABSTAIN; 0 ABSENT

BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON



Jon Kaino, Chairman of the Board

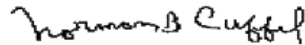
ATTEST:



Clerk of the Board



Pat Hamilton, Commissioner



Norman "Bud" Cuffel, Commissioner